

## What every NSTU member should know: CRIMINAL ALLEGATIONS

The worst nightmare for any NSTU member is when a criminal complaint, especially a criminal complaint of assault and/or sexual misconduct, has been made against him or her.

The **first step** a member should take is to contact an executive staff officer in the member services department of the Nova Scotia Teachers Union for advice. The staff officer assigned to your case will direct the procedures that will be followed to minimize the damage that such allegations can and do create. The staff officer will advise a member of the processes to be followed and will provide access to legal counsel. Do NOT DO anything until you have talked to legal counsel. Exercise your constitutional right to remain silent.

**There are a number of things that an accused member should NOT do:**

1. **Do not** discuss or supply a written report on the matter with anyone other than legal counsel. This would include staff members and/or Board/Employer officials.
2. **Do not** discuss the matter or give a written statement to police or child protection investigators until you have had the opportunity to discuss and receive advice from legal counsel.
3. **Do not** attempt to resolve the matter personally.
4. **Do not** make any contact with the accuser or his/her family.
5. **Do not** talk to the media.

There are very good reasons for each of these instructions. If a criminal charge results from the allegation, the member's right of due process could well have been compromised because of an inadvertent comment made to someone. Anyone, except legal counsel retained on behalf of an accused person, can be called to testify in a trial in regard to anything said by an accused person. **The right to consult with legal counsel before making a statement to the police or child-care workers is an absolute right in law.**

**Members who have suffered such allegations have often been contacted by police authorities beyond school hours and in some cases in very unorthodox ways. Members are advised that there are a number of things you need NOT do by law.**

1. You **need not** go with the police upon request, unless you are arrested and if you are informed of the reasons for being arrested.
2. You **need not** give a written or verbal statement, even if arrested.
3. You **need not** give a written or verbal statement at any time unless advised by legal counsel.
4. You **need not** talk to police at any time under any circumstances, other than give your name and address
5. You **need not** sign a document of any kind unless it is appearance notice stating the date you are to be in court.
6. You **need not** report to the police station to answer any questions unless accompanied by legal counsel.
7. You **need not** allow police to enter your residence without a search warrant.
8. You **need not** submit to a polygraph.

A serious allegation can have impact on employment status. The Employer may feel that it is necessary to remove a member from the work environment during the investigation process. In those situations, the NSTU will work with the Employer to protect the employment rights and the financial **well being** of members. Often, a member will be placed on a paid leave during the period of investigation.

We must also recognize and address the normal emotions and reactions of anyone who faces the trauma of being accused of a serious offence. Most members who have been accused want to immediately resolve the situation. The key is to avoid saying anything to anybody until contact with the NSTU has been established and legal counsel has been retained on your behalf.

Usually, the resolution of the problem is a time-consuming process. Great care is taken to protect the rights of the member involved. These cases are always taken very seriously by the NSTU staff, and members should be assured that advice and support will be forthcoming. Once a resolution has been reached, whatever it might be, you should be aware of the long-term emotional effects of such an experience not only for you, but also for your family members, friends and co-workers. Counselling is available through NSTU's Counselling Services.

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